

2003 DRAFTING REQUEST**Bill**Received: **05/07/2003**Received By: **mshovers**Wanted: **As time permits**

Identical to LRB:

For: **Terri McCormick (608) 266-7500**By/Representing: **Jennifer Komassa**This file may be shown to any legislator: **NO**Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - miscellaneous
Bonding - municipal**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.McCormick@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Change notice, filing requirements in industrial development revenue bond statutes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	mshovers 08/14/2003	kfollett 08/15/2003 kfollett 08/20/2003	pgreensl 08/20/2003		lemery 08/20/2003	lnorthro 09/11/2003	

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Page 2

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At Intro

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Page 2

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1/?	mshovers	11/14/03	8/20/03	8/20/03			
11 MES		8/14/03	8/20/03	8/20/03			
FE Sent For:							

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Marchant, Robert

From: Komassa, Jennifer
Sent: Tuesday, May 06, 2003 3:13 PM
To: Marchant, Robert
Subject: Economic Development Legislation

Hello Mr. Merchant,

Per our conversation, I have attached some drafting notes from our office in regards to new economic development legislation. Please let me know if this is something you will be able to help us with or if we should see someone else. Also, the piece I am sending you is a condensed version of another version we have that has many more proposals from a Governor's Economic Development Conference. We'd be happy to send you the additional piece which has longer summaries if you'd like.

Thank you!
Jennifer Komassa



NEW ECONOMIC
DEVELOPMENT PROPOSAL

Jennifer Komassa
Research Assistant
Office of Representative McCormick
608-266-7500
Fax: 608-282-3656

MES -

See #2.

Please do as a stand-
alone bill.

NEW ECONOMIC DEVELOPMENT PROPOSALS
Prepared for April 30, 2003 McCormick office staff meeting

1. Repeal the shareholder wage claim statute

Background: This statute provides that shareholders of a corporation are personally liable to an amount equal to the par value of their shares owned for all wages owing to employees for up to the preceding six months.

Example: If an investor puts \$10,000 into a venture capital investment, under this law they are liable for another \$10,000 if the business goes under.

Change: Repeal the shareholder wage claim statute and since unpaid wages are an insurable risk, propose that these claims should be included as part of the state's Unemployment Compensation Fund. This would ensure coverage for workers without burdening businesses that rely on investors for start-up or continuing capital.

Fiscal Estimate?: Assumed that DFI will attach a fiscal note for expanding the Unemployment Compensation Fund?

2. Revise and update various filing requirements and other restrictions on Industrial Development Bond Issues (66.1103 of the WI Statutes)

Background: The IDB statute has several notice or reporting requirements that make its use significantly more burdensome than those of neighboring states.

***Changes in federal tax laws relating to tax exemption for these bonds now make these provisions obsolete.*

Change: Revise the IDB statute because the new federal tax laws make this statute burdensome and unnecessary.

Fiscal Estimate?: none most likely

3. Repeal Chapter 406 Uniform Commercial Code-Bulk transfers

Background: Wisconsin law sets out specific conditions to be fulfilled by both the purchaser and seller before the consummation of a bulk sale, as an attempt to protect creditors from sellers who, having purchased merchandise on credit, sell all such merchandise without satisfying the debt owed to the creditor. Many of the original purposes for enacting bulk sales legislation, such as poor communication and lack of remedies, no longer exist.

Change: Repeal the Uniform Commercial Code

Fiscal Estimate?: none most likely

RSM

7/7 MJS
Called and asked
for info on what
changes they'd
like-- Jennifer
said she'd send
me some info.

ROM

4. Modify the restrictions placed on the pre-closing qualifications and post-closing operations of companies that receive CAPCO (Certified Capital Companies) funds.

Background: The CAPCO laws establish certain qualification for businesses that receive CAPCO funds including:

- ✓ must be in need of venture capital and unable to obtain it by conventional financing
- ✓ must have no more than 100 employees
- ✓ 75% of the employees must be employed in WI
- ✓ must have no more than \$2 million in annual net worth
- ✓ must have no more than \$5 million net worth
- ✓ must not be engaged in certain prohibited business activities

Change: The Wisconsin Department of Commerce should be given authority to issue an opinion to the effect that a business is qualified to receive CAPCO funds, even if it fails to meet all of the criteria set forth in the statute, based on a finding that the business will contribute to economic development in the state.

Fiscal Estimate?: none most likely

5. Establish CAPCO-type funds for Wisconsin utilities and regulated financial institutions

Background: Businesses in regulated industries are required to invest to protect the interests of the public and/or maintain their status with various rating agencies and although such businesses often maintain very large cash reserves, little or none of such reserves are made available for high risk, potential high growth capital investments.

Change: Wisconsin should expand its CAPCO program to provide tax credits to utilities, regulated financial institutions and perhaps other regulated industries to enable them to invest a small portion of their reserves in venture capital investments in the state.

Fiscal Estimate?: none most likely

6. Create a new tax credit for investors who invest in Wisconsin startup companies

Background: Many investors hesitate to help startup companies for the fear of financial repercussions. An investor-friendly tax policy would go a long way in making both investors and entrepreneurs more apt to do business in Wisconsin.

Change: Create a new tax credit

Fiscal Estimate?: none most likely

7. Establish a Wisconsin Capitol Investment Board (WCIB) to invest in private venture capital partnerships, structured in a way to minimize the likelihood that public funding assistance will be necessary.

How it would work: WCIB would borrow money from institutional lenders and investors to invest in private venture capital funds, not in individual companies. The lenders of WCIB would be guaranteed a return of their capital, with interest at a set amount, backed by tax credits of up to \$20 million per year and up to \$100 million over the life of the program. ***If the investments are successful and the guaranteed returns are met, no public money is needed. The WCIB would manage and oversee the venture capital program and would consist of trustees appointed by the Governor, several full-time employees, and a due diligence advisor. The trustees would be individuals with investment experience making appropriate decisions for the funds.

Fiscal Estimate?: who pays for the employees? Does this come out of the WCIB funds?

8. Allow a 60% capital gains exclusion on state taxes for investments by entities in qualified small Wisconsin companies

Background: Currently there is a 60% capital gains exclusion for individuals investing in qualified small Wisconsin companies.

Change: This proposal would encourage entities to invest in Wisconsin high-tech businesses on the same basis as provided to individuals.

Shovers, Marc

From: Komassa, Jennifer
Sent: Wednesday, August 06, 2003 3:45 PM
To: Shovers, Marc
Subject: Industrial Development Bond Issues

Hi Mr. Shovers,

Per your request, I have more information on which filing requirements and restrictions Representative McCormick would like to see changed in 66.1103. I've attached a document describing those changes.

I am not sure what your current schedule is like, but the Representative is hoping to circulate several other economic development initiatives with this legislation in the near future. Will this work for your schedule? Is there anything we can do to help expedite things?

If you have any questions, please don't hesitate to call.

Thank you,
Jennifer Komassa

Jennifer Komassa
Research Assistant
Office of Representative McCormick
608-266-7500
Fax: 608-282-3656



Changes to
Industrial Developm...

Several provisions in section 66.1103 impose filing or other requirements that are burdensome (to varying degrees) and that are not generally found in the IDB statutes of surrounding states.

sub (4m) requires certain filings and notifications regarding expected job impact of the financing. However, federal tax law imposes a limit on the dollar volume of IDBs that can be issued in each state (referred to as "volume cap"). The process for receiving an allocation of volume cap from the department of commerce requires an application that includes job information. In addition, many of the municipalities have their own application process that includes job data. (It is after all, the local municipality that decides whether or not to offer the financing.) Thus, prospective borrowers have duplicative and often triplicative information collecting and reporting requirements.

Sub (4s) imposes requirements/limitations on financing projects that involve moving jobs from one municipality to another. While this may seem like sound policy, if someone in Milwaukee is considering moving to Kenosha or just across the state line, this provision would make Kenosha less attractive. While this provision is not specifically covered by any federal tax law provision, the volume cap process could also provide any necessary protection. Since the volume cap is allocated by an appointed council, based on an administrative rule, they can take into account whatever job creation or protection requirements they deem appropriate. That way, the requirements could be more tailored to the particular needs and economic circumstances at the time of the financing.

Sub (6m) requires certain notifications of position openings during the year after the IDB financing. Notices are required to be given 2 weeks before advertising the position. Employers have told us that it is impractical for them to hold off on advertising a position for 2 weeks, when they need to fill the position. It is actually counterproductive to getting a position filled.

Sub (10)(b) and (d) requires a notice of the adoption of an initial resolution to be published in the official newspaper of the municipality, and gives the residents an opportunity to petition for a referendum. I have never seen such a petition filed in my 19 years of working on IDBs. The notice element is duplicative of a federal tax law requirement that there be a public hearing on the issuance of the bonds and the nature of the project, and that notice of the hearing be published 2 weeks before the hearing. Thus, in Wisconsin, the borrowers have to pay for 2 notices to be published.

Sub (10)(c) requires certain filings with the department of commerce. Since commerce also administers the volume cap allocations described above, they can get the necessary information in that context.

Sub (10)(g) requires a filing with the department of commerce of an estimate of legal fees to be paid with the bond proceeds. However, the Internal Revenue Code now limits the amount of issuance costs, including legal fees, that can be paid with bond proceeds to 2% of the amount of the bonds. The estimate requirement is basically make-work.

Sub (11) requires public bidding of construction contracts, but allows a resolution to be adopted (and published in full) waiving this requirement. Such a resolution is almost universally adopted. Keep in mind that there are no public funds being used here, and the project is not a "public works" project. It is a private project paid for with private funds. The IDBs give the borrower federal tax-exempt financing, but provide no assistance with paying off the bonds. Again, the requirement for adoption and publication of a separate resolution is make-work.

Dave
Ryan
(44)
207 5761

Only RP; par. (b)
p. 66.1105(1)(b)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2785/7

MES...

[Handwritten signature]

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

[Handwritten initials]

WANTED
SOON
IN 8/14

AN ACT ...; relating to: repealing certain filing, notice, and bidding requirements related to industrial ^{development} revenue bonds.

industrial development above

Analysis by the Legislative Reference Bureau

Under the current industrial development revenue bonding statute, municipalities (cities, villages, or towns) may do all of the following:

1. Construct, equip, acquire, rebuild, maintain, or remodel industrial projects.
2. Borrow money and issue revenue bonds (IDBs) to finance all or part of the costs of the work described in item 1, and for improving sites for industrial projects.
3. Enter into revenue agreements that are related to industrial projects. "Revenue agreements" is defined to include any lease, sales or service contract, loan agreement, or similar agreement providing that any private person agrees to pay the municipality an amount of funds to provide for the payment of the principal of, and interest on, the IDBs and agrees to construct the project.
4. Mortgage all or part of the industrial project, or assign the revenue agreements in favor of the bond holders.
5. Sell the industrial project and site.

Generally, the principal and interest due on IDBs issued by a municipality are payable solely out of the revenues derived under the revenue agreement that relates to the project to be financed by the bonds.

Under current law, there are a number of certifications that must be obtained, and notice, filing, and bidding requirements that must be met, before a municipality may enter into a revenue agreement.

This bill repeals a number of requirements to obtain certifications, and a number of notice, filing, and bidding requirements that must be met, before revenue

agreements may be entered into or industrial projects undertaken, including the following:

1. A requirement that the municipality obtain from the department of commerce (~~DOC~~) an estimate of the number of jobs that the industrial project is expected to eliminate, create, or maintain. X

2. Certification from a prospective employer for an industrial project that, with some exceptions, the project will not result in job shifting from one location in this state to the site of an industrial project.

3. A requirement that a party to a revenue agreement notify the department of workforce development, during the first year after the issuance of IDBs, of job openings in a municipality that are to be filled by that party. The notice must be given ^{two} 2 weeks before the position may be advertised. X

4. After a municipality adopts an initial resolution to proceed with an industrial project, a requirement that public notice of the municipality's action be given before IDBs may be issued. The public notice must include the following: the maximum amount of the bonds; the name of the private person who is a party to a revenue agreement; the purpose of the bonds; and the net number of jobs the project is expected to create, maintain, or eliminate. X

5. A requirement that a copy of the initial resolution, and a statement indicating when the notice requirement described in item 4, will be published, be filed with the secretary of ~~DOC~~. ~~DOC~~ may request additional information relating to the project before the issuance of the IDBs. X

6. A provision stating that the IDBs may be issued without a referendum being submitted to, and approved by, the electors of the municipality unless, within 30 days from the date of publication of the notice described in item 4, a petition signed by a specified number of electors requesting a referendum on the IDB issuance is filed with the municipal clerk. X

7. A requirement that IDBs may not be issued before the municipality adopts a resolution estimating the amount of attorney fees which will be paid from bond proceeds and files the resolution with the municipal clerk and ~~the DOC~~. commerce

8. A provision requiring that construction contracts with an estimated cost of more than \$5,000 must be advertised and then let to the lowest responsible bidder, although the provision also allows a municipality to waive this requirement. If construction contracts are let under this statute, however, the contract must prohibit discrimination in employment and subcontracting.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.1103 (4m) of the statutes is repealed. X

SECTION 2. 66.1103 (4s) of the statutes is repealed. X

SECTION 3. 66.1103[✓] (6) (c) of the statutes is amended to read:

66.1103 (6) (c) A governing body may not adopt an initial resolution authorizing issuance of bonds to finance a project specified under sub. (2) (k) 11. unless the governing body finds and states in the initial resolution that the project will significantly increase the number of persons traveling to the municipality for business or recreation. ~~The statement shall be included in the public notice required under sub. (10) (b).~~

History: 1973 c. 265; 1977 c. 28; 1979 c. 32 s. 92 (9); 1979 s. 34, 221, 350, 355; 1979 c. 361 s. 112; 1979 c. 362 ss. 3 to 12, 16, 17, 18; 1981 c. 314; 1983 a. 24, 27; 1983 a. 189 ss. 63 to 65, 329 (14); 1983 a. 207 s. 93 (8); 1983 a. 532 s. 36; 1985 a. 29, 222, 285; 1985 a. 297 s. 76; 1985 a. 299; 1987 a. 27; 1989 a. 192; 1991 a. 39, 316; 1993 a. 122, 124, 453; 1995 a. 27 ss. 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 332; 1997 a. 3, 27, 35, 39; 1999 a. 9; 1999 a. 150 ss. 495 to 497; Stats. 1999 s. 66.1103; 1999 a. 182 s. 206; 2001 a. 30, 38, 103.

SECTION 4. 66.1105[✓] (6m) of the statutes is repealed.

SECTION 5. 66.1105 (9) (b) 2. of the statutes is amended to read:

66.1105 (9) (b) 2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but a referendum or election may be held, through the procedures provided in s. 66.1103 (10) (d), 2001 stats. The resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by the bond or notes. The resolution may prescribe the terms, form and content of the bonds or notes and any other matters that the local legislative body deems useful.

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418; 1979 c. 221, 343; 1979 c. 361 s. 112; 1981 c. 20, 317; 1983 a. 27, 31, 207, 320, 405, 538; 1985 a. 29, 39, 285; 1987 a. 27, 186, 395; 1989 a. 31, 326; 1993 a. 293, 337, 399; 1995 a. 27 ss. 3330c to 3337, 9116 (5), 9130 (4); 1995 a. 201, 225, 227, 335; 1997 a. 3, 27, 237, 252; 1999 a. 9; 1999 a. 150 ss. 457 to 472; Stats. 1999 s. 66.1105; 2001 a. 5, 11, 16, 104.

SECTION 6. 66.1105[✓] (10) (b) of the statutes is repealed.

SECTION 7. 66.1105[✓] (10) (c) of the statutes is repealed.

SECTION 8. 66.1105[✓] (10) (d) of the statutes is repealed.

SECTION 9. 66.1105[✓] (10) (g) of the statutes is repealed.

SECTION 10. 66.1105[✓] (11) (b) of the statutes is repealed.

SECTION 11. 560.03 (15) (intro.) of the statutes is amended to read:

Sort
move

560.03 (15) (intro.) Annually, submit [✓]a summary of the employment impact estimates required under s. 560.034 (2) [✓]and a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), analyzing the use of industrial revenue bond financing under s. 66.1103 and accurately reporting the benefits of that use, including the effect on employment in this state including, but not limited to:

History: 1971 c. 211 s. 126; 1971 c. 321 ss. 10, 16; Stats. 1971 s. 560.03; 1979 c. 34; 1979 c. 361 ss. 45, 87 to 96; 1979 c. 362; 1983 a. 27, 83, 86, 90, 91, 192; 1985 a. 182 s. 57; 1985 a. 299; 1987 a. 27, 186; 1987 a. 399 s. 433; 1989 a. 87; 1991 a. 39, 302; 1993 a. 399; 1995 a. 27, 227; 1997 a. 27; 1999 a. 150 s. 672; 2001 a. 104.

SECTION 12. 560.034 (1) of the statutes is amended to read:

560.034 (1) The department shall prescribe the notice forms to be used under ss. ~~66.1103 (4m) (a) 1.~~ [✓]and s. 234.65 (3) (a). The department shall include on the forms a requirement for information on the number of jobs the person submitting the notice expects to be eliminated, created or maintained on the project site and elsewhere in this state by the project which is the subject of the notice. The department shall prescribe the forms to be used under ss. ~~66.1103 (4m) (b)~~ [✓]and s. 234.65 (3r).

History: 1985 a. 299; 1999 a. 85; 1999 a. 150 s. 672; 2001 a. 104. [✓]

SECTION 13. 560.034 (2) of the statutes is repealed. [✓]

SECTION 14. 560.034 (5) (a) of the statutes is repealed. [✓]

SECTION 15. 560.097 of the statutes is amended to read: [✓]

560.097 Notification of position openings; compliance. The department shall monitor compliance with the position-opening notification requirements under ss. ~~66.1103 (6m)~~ [✓]and s. ~~106.16~~ ^Δ.

History: 1987 a. 27; 1995 a. 27; 1999 a. 150 s. 672.

(END)

Emery, Lynn

From: Komassa, Jennifer
Sent: Thursday, September 11, 2003 1:56 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2785/1 Topic: Change notice, filing requirements in industrial development revenue bond statutes

It has been requested by <Komassa, Jennifer> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2785/1 Topic: Change notice, filing requirements in industrial development revenue bond statutes